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December 29th, 2022

VIA CM/ECF

Nancy H. Lord
United States Bankruptcy Court
Eastern District of New York
Conrad B. Duberstein U.S. Courthouse
271-C Cadman Plaza East
Brooklyn, NY 11201-1800

In Re: Zen Restoration, Inc.
Case No.: 1-22-40809-NHL

Dear Judge Lord:

This office represents Zen Restoration, Inc., the above referenced Chapter 11 Debtor (the “Debtor”). Our office filed an Objection (the “Objection”) (Docket Item # 64) to a Motion filed by Greenpoint Mixed Use LLC (hereinafter referred to as “Greenpoint”) (Docket Item # 59) seeking, *inter alia*, the entry of an Order vacating the automatic stay so as to allow Greenpoint to continue with its foreclosure action presently pending in Supreme Court, County of Kings, under Index # 514946/2019 in which the Chapter 11 Debtor, Zen Restoration Inc., was listed as a Party Defendant. We are writing this letter in support of the entry of our proposed Counter-Order (Docket Item # 71) submitted in connection with Greenpoint’s Motion to Vacate Stay pursuant to EDNY LBR 9072-1(a).

In addition to the premises at 273 Russell Street, Brooklyn, New York, the Debtor in its Objection argued that the Debtor held a possessory interest in the premises located at 330 Calyer Street, Brooklyn, New York (the “Calyer Street Property”). It has been established by precedent in the Second Circuit that a possessory interest in real property is sufficient to fall within the ambit of protection of the automatic stay. See *48th Street Steakhouse, Inc. v. Rockefeller Group, Inc. (In re 48th Street Steakhouse)*, 835 F.2d 427, 430 (2d Cir.1987) (“Indeed, a mere possessory interest in real property, without any accompanying legal interest, is sufficient to trigger the protection of the automatic stay.”). Clearly, Zen Restoration’s possessory interest in the Russell Street Property and the Calyer Street Property permits same to fall within the ambit of protection under the automatic stay under 11 U.S.C. Section 362(a).

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As argued in the Objection, at the Calyer Street Property is equipment owned by the Debtor's principal, which is utilized by Zen Restoration in its restoration projects, including but not limited to workrooms with machines to make custom cabinets for the Debtor's projects, such as a spray booth for spraying cabinets and other woodwork after these projects are completed. Also at the Calyer Street Property is the work room for the upholstery and the space for garaging the vehicles and tools and materials used by Zen Restoration.

In ruling on Greenpoint's Motion, the Court acknowledged the Debtor's possessory interest and directed that Greenpoint could not evict the Debtor from 273 Russell Street, Brooklyn New York without further order of the Bankruptcy Court. Since we asserted in our Objection that the Debtor also held a possessory interest in 330 Calyer Street, Brooklyn New York, we request that the Debtor cannot be evicted from that property as well without further Order of the Bankruptcy Court. This provision regarding the Calyer Street Property has been asserted in the last paragraph of our proposed Counter-Order.

As such, it is respectfully submitted that the Debtor's proposed Counter-Order be entered by the Bankruptcy Court.

Thank you for your courtesy with this matter.

Respectfully submitted,

/s/ Michael Farina

Michael Farina

cc: (Via ECF)
All appearing Parties.